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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/792,221

03/03/2004

Alfred W. Salvitti

4148

44321

7590

09/27/2006

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EXAMINER

HANEY, RICHAE LEE

ART UNIT

PAPER NUMBER

3765

DATE MAILED: 09/27/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

NT

<b>Office Action Summary</b>	<b>Application No.</b> 10/792,221	<b>Applicant(s)</b> SALVITTI, ALFRED W.	
	<b>Examiner</b> Richale L. Haney	<b>Art Unit</b> 3765	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 19 June 2006.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) 5-7, 13, 14, 17 and 19-21 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4, 8-12, 15, 16, 18 and 22-26 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>6/1/2004</u> . | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Claims 5, 6, 7, 13, 14, 17, 19, 20, and 21 withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 6/19/2006.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1 – 4 and 8 – 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Gallagher (US 3, 408,657). The device of Gallagher discloses a device for restraining an object (28) to the hand of a user, the hand having more than one side (palm side and dorsal side) and an arm member (9), at least one attachment member (30) being attachable to the arm member, the object being restrained proximal to the hand by extending the attachment member between one side of the hand (Figure 11) to the other side of the hand (Figure 1), wherein the object is positioned between the hand and the attachment member. The attachment member has a first end which is removable attachable to the arm member (38) and the attachment member can be positioned

Art Unit: 3765

around the arm member so that the attachment member does not extend around an object. The object is attached to the hand by extending the attachment member (30) between the palm side (Figure 2) and the outer side (Figure 1) so that the object is positioned between the palm side of the hand and the attachment member (30). The arm member has a pivoting portion, the pivoting portion (32) pivoting when the attachment member is around the object (See the pivoting movement in Figures 1, 2 and 3). In regard to claims 2 and 10, the device of Gallagher does not specifically disclose the objects being a human being or a gun as claimed by the applicant. However, the device of Gallagher is inherently capable of securing any type of object in place of the object which is shown. MPEP section 2114 recites that a claim containing a "recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus" if the prior art apparatus teaches all the structural limitations of the claim. *Ex parte Masham*, 2 USPQ2d 1647 (Bd. Pat. App. & Inter. 1987). Therefore, the object which is being restrained (i.e. A human being secured to the attachment member by the neck) for self defense, military, or law enforcement purposes is met by the device of Gallagher since the structure would allow the device to perform in the manner which is claimed.

4. Claims 15, 16, 18, and 22 – 26 are rejected under 35 U.S.C. 102(b) as being anticipated by Tiktin (US 4,368,883). The device of Tiktin discloses an attachment member (40) for restraining an object (42) proximal to the hand of a user (Figure 1). The attachment member having at least one first end (see the end attached to the arm member 10) and second end attached to the object (42) and at least one intermediate

Art Unit: 3765

portion (44) being located between each end and each end have a respective attacher comprising a bracket (46). It is noted that the device is selectively capable of being attached to any portion of the arm members various attachment points (30, 32, 34) and is capable of attaching any object between the palm of the wearer and the outer side of the glove in the manner claimed by the applicant.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gallagher in view of Roush (US 6,678,986). The device of Gallagher substantially discloses the claimed invention but is lacking a pivoting portion comprising a memory member. The device of Roush discloses a pivoting member (16) having a memory member (Column 5, lines 35 –41). It would have been obvious to one of ordinary skill in the art at the time the invention was made to use a memory member as taught by Roush in order to provide a precise fit to the object that is being retained.

Art Unit: 3765

**Conclusion**


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Richale L. Haney whose telephone number is 571-272-8689. The examiner can normally be reached on M-F 8:00 - 4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary Welch can be reached on 571-272-4996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Richale L. Haney  
Patent Examiner  
Art Unit 3765  
September 19, 2006

RLH

  
GARY L. WELCH  
GARY L. WELCH  
PRIMARY EXAMINER